TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, ~~1901~~ 1902.

No. ~~545~~ 236.

THE UNITED STATES, APPELLANT,

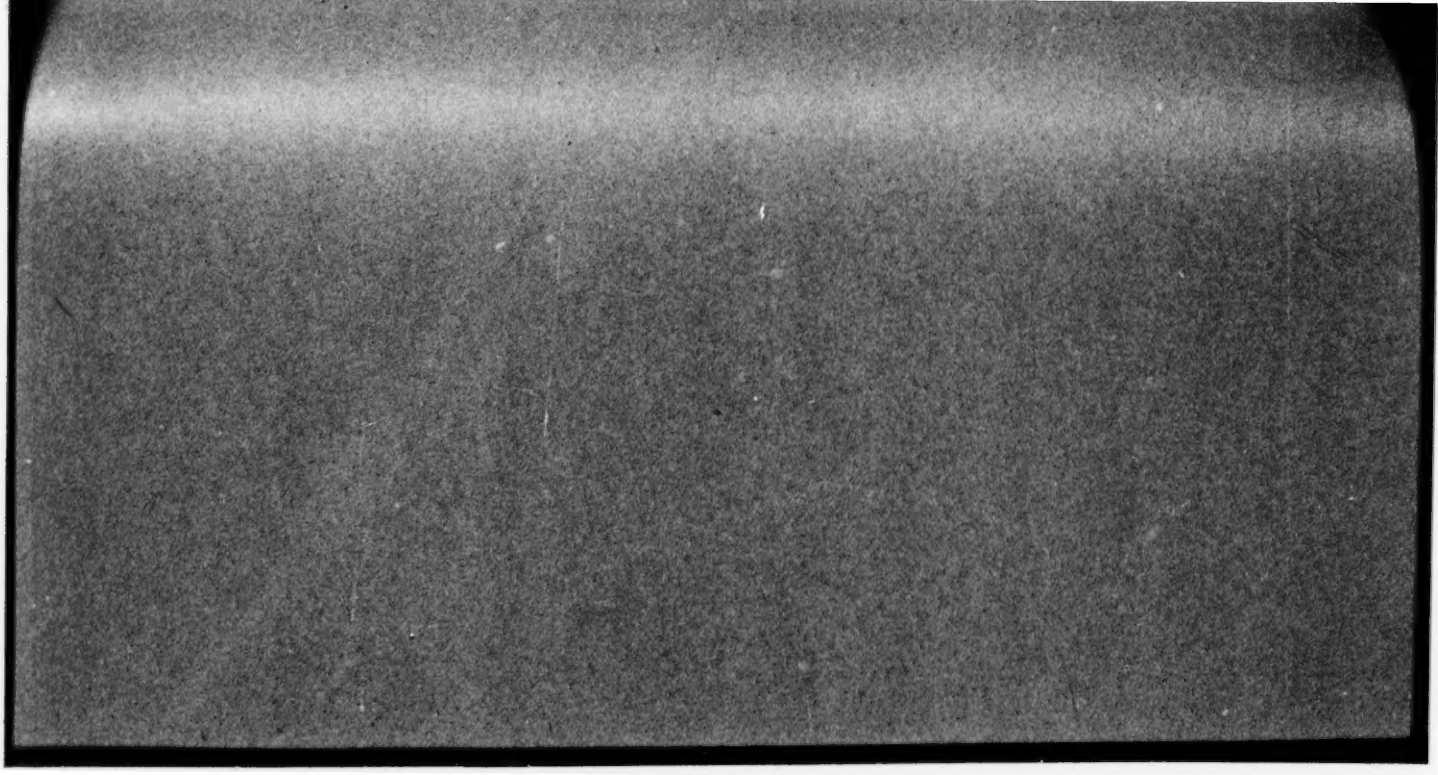
vs.

JOHN C. SWEET.

APPEAL FROM THE COURT OF CLAIMS.

FILED FEBRUARY 7, 1902.

(16396.)



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22845—02

1 In the Court of Claims.

JOHN C. SWEET, v. THE UNITED STATES. } No. 21555.

I.—PETITION. *Filed November 21, 1899.*

To the honorable the Court of Claims:

The claimant, John C. Sweet, respectfully represents:

1. That he was originally mustered into the military service of the United States at Camp Ramsey, in the city of St. Paul, in the State of Minnesota, on the 17th day of August, 1898, as 2nd lieutenant in Company A, 15th Regiment Minnesota Volunteers, and served honorably in said regiment within the limits of the United States continuously until the 15th day of October, 1898.

2. That on said day he was honorably discharged from said service at Camp Meade, Pennsylvania, upon tender of his resignation.

3. That by the provisions of §1289 of the Revised Statutes of the United States he became entitled, upon discharge as aforesaid, to transportation and subsistence from the place of his discharge to the place of his enlistment, enrollment, or original muster into the service, but was not furnished the same and is therefore entitled to be allowed travel pay and commutation of subsistence from the place of his discharge to the place of his enrollment, computed at the rate of one day for every twenty miles. That the distance from Camp Meade, Penn., to St. Paul, Minn., or to claimant's residence, Minneapolis, Minn., is 1,147 miles, and his rate of pay per day, at the time of muster out and discharge, was three dollars and eighty-nine cents ($3.89).

4. That by reason of the facts aforesaid there became due to him two hundred and twenty-five dollars and fifty-two cents ($225.52), but no claim therefor has been presented to the Treasury Department because the Comptroller of the Treasury has already ruled that travel pay under §1289 of the Revised Statutes aforesaid is not due to officers who

2 were discharged upon acceptance of resignation.

No other action than as aforesaid has been had on this claim in Congress or by any of the Departments.

The claimant is the sole owner of this claim and the only person interested therein; and no assignment or transfer of this claim, or of any part thereof or interest therein, has been made.

The claimant is justly entitled to the amount herein claimed from the United States, after allowing all just credits and offsets. The claimant is a citizen of the United States, and has at all times borne true allegiance to the Government thereof, and has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government; and the claimant believes the facts as stated in this petition to be true. And the claimant prays judgment for two hundred and twenty-five dollars and fifty-two cents ($225.52).

GEORGE A. & WM. B. KING,
Attorneys for Claimant.

STATE OF MINNESOTA,
County of Hennepin, ss:

John C. Sweet, being duly sworn, deposes and says: I am the claimant in this case. I have read the above petition, and the matters therein stated are true, to the best of my knowledge and belief.

JOHN C. SWEET.

Subscribed and sworn to before me this 18th day of November, 1899.

[SEAL.] W. W. BARDWELL,
Notary Public, Hennepin Co., Minn.

II.—TRAVERSE. *Filed February 27, 1901.*

And now comes the Attorney-General, on behalf of the United States, and answering the petition of the claimant herein, denies each and every allegation therein contained, and asks judgment that the petition be dismissed.

And as to so much of the said petition as avers that the said claimant has at all times borne true faith and allegiance to the Government of the United States, and has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government, the Attorney-General, in pursuance of the statute in such case provided, denies the said allegations, and asks judgment accordingly.

L. A. PRADT,
Assistant Attorney-General.

3 III.—FINDINGS OF FACT AND CONCLUSION OF LAW. *Filed December 2, 1901.*

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following

FINDINGS OF FACT.

I.

1. Claimant was mustered into the military service of the United States at Camp Ramsey, in the city of St. Paul, in the State of Minnesota, his place of residence then being Minneapolis, in said State, on the 17th day of August, 1898, as 2d lieutenant in Company A, 15th Regiment Minnesota Volunteers.

2. He served honestly and faithfully in said regiment within the limits of the United States until the 15th day of October, 1898, when he was honorably discharged the service under Special Orders, number 244, Headquarters of the Army, as follows:

"Special Orders, } "HEADQUARTERS OF THE ARMY,
"No. 244. } "ADJUTANT-GENERAL'S OFFICE,
"*Washington, October 15, 1898.*

"93. By direction of the Secretary of War, the following-named officers, having tendered their resignations, are honorably discharged the service of the United States, to take effect this date.

"Captain S. Schieffelin Stebbins, 12th New York Volunteer Infantry.
"Second Lieutenant John C. Sweet, 15th Minnesota Volunteer Infantry.
"By command of Major-General Miles:

"H. C. CORBIN,
"*Adjutant-General.*"

When discharged he was with his regiment in line of duty at Camp Meade, Pa., which is distant from the claimant's residence, Minnesota, Minn., or his place of muster in St. Paul, Minn., 1,147 miles.

3. His daily rate of pay at the time of muster out and discharge was $3.89.

4. The claimant was not furnished transportation or subsistence in kind, but returned to his residence at Minneapolis, Minnesota,
4 at his own expense. Nor has he been paid travel pay or commutation of subsistence.

CONCLUSION OF LAW.

Upon the foregoing findings of fact the court decides, as a conclusion of law, that the claimant is entitled to recover the sum of $222.89.

BY THE COURT.

IV.—JUDGMENT OF THE COURT.

JOHN C. SWEET
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UNITED STATES. } No. 21555.

At a Court of Claims, held in the city of Washington on the 2d day of December, 1901, judgment was entered in the above-entitled case as follows:

The court, on due consideration of the premises, find for the claimant, and do order, adjudge, and decree that the claimant, John C. Sweet, do have and recover of and from the United States the sum of two hundred and twenty-two dollars and eighty-nine cents ($222\frac{89}{100}$).

BY THE COURT.

5 V.—APPLICATION FOR AND ALLOWANCE OF APPEAL.

JOHN C. SWEET
v.
UNITED STATES. } No. 21555.

From the judgment rendered in the above-entitled cause, on the 2nd day of December, 1901, in favor of the claimant, the defendants, by their Attorney-General, on the 27th day of January, 1902, make application for, and give notice of, an appeal to the Supreme Court of the United States.

L. A. PRADT,
Assistant Attorney-General.

Filed January 27, 1902.
Ordered that this application for appeal be allowed as prayed for.

BY THE COURT.

January 27, 1902.

6 Court of Claims.

JOHN C. SWEET
vs. } No. 21555.
UNITED STATES.

I, John Randolph, assistant clerk of the Court of Claims, hereby certify that the foregoing are true copies of the pleadings in the above-entitled cause of the findings of fact and conclusion of law filed by the court, of the judgment of the court, of the application for and allowance of appeal to the Supreme Court of the United States.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court of Claims this 4th day of February, 1902.

[SEAL.] JOHN RANDOLPH,
Asst. Clerk Court of Claims.

(Indorsement on cover:) File No., 18398, Court of Claims. Term No., 545. The United States, appellant, *vs.* John C. Sweet. Filed February 7th, 1902.

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